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HOUSE BILL 793

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

James Roger Madalena

AN ACT

RELATING TO LAW ENFORCEMENT; CLARIFYING THAT THE POWERS OF A COUNTY SHERIFF TO APPOINT DEPUTY SHERIFFS IS NOT LIMITED BY PROVISIONS OF SECTION 29-1-11 NMSA 1978 (BEING LAWS 1972, CHAPTER 8, SECTION 1, AS AMENDED).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 29-1-11 NMSA 1978 (being Laws 1972, Chapter 8, Section 1, as amended) is amended to read:

"29-1-11. AUTHORIZATION OF TRIBAL AND PUEBLO POLICE OFFICERS AND CERTAIN FEDERAL OFFICERS TO ACT AS NEW MEXICO PEACE OFFICERS--AUTHORITY AND PROCEDURE FOR COMMISSIONED PEACE OFFICERS.--

A. All persons who are duly commissioned officers of the police or sheriff's department of any New Mexico Indian nation, tribe or pueblo or who are law enforcement officers

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1 employed by the bureau of Indian affairs and are assigned in  
2 New Mexico are, when commissioned under Subsection B of this  
3 section, recognized and authorized to act as New Mexico peace  
4 officers. These officers have all the powers of New Mexico  
5 peace officers to enforce state laws in New Mexico, including  
6 the power to make arrests for violation of state laws.

7 B. The chief of the New Mexico state police is  
8 granted authority to issue commissions as New Mexico peace  
9 officers to members of the police or sheriff's department of  
10 any New Mexico Indian nation, tribe or pueblo or a law  
11 enforcement officer employed by the bureau of Indian affairs to  
12 implement the provisions of this section. The procedures to be  
13 followed in the issuance and revocation of commissions and the  
14 respective rights and responsibilities of the departments shall  
15 be set forth in a written agreement to be executed between the  
16 chief of the New Mexico state police and the Indian nation,  
17 tribe or pueblo or the appropriate federal official.

18 C. The agreement referred to in Subsection B of  
19 this section shall contain the following conditions:

20 (1) the Indian nation, tribe or pueblo, but  
21 not the bureau of Indian affairs, shall submit proof of  
22 adequate public liability and property damage insurance for  
23 vehicles operated by the peace officers and police professional  
24 liability insurance from a company licensed to sell insurance  
25 in the state;

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1 (2) each applicant for a commission shall  
2 successfully complete four hundred hours of basic police  
3 training that is approved by the director of the New Mexico law  
4 enforcement academy;

5 (3) the chief of the New Mexico state police  
6 shall have the authority to suspend any commission granted  
7 pursuant to Subsection B of this section for reasons solely  
8 within [~~his~~] the chief's discretion;

9 (4) if any provision of the agreement is  
10 violated by the Indian nation, tribe or pueblo or any of its  
11 agents, the chief of the New Mexico state police shall suspend  
12 the agreement on five days' notice, which suspension shall last  
13 until the chief is satisfied that the violation has been  
14 corrected and will not recur;

15 (5) the goldenrod-colored officer's second  
16 copy of any citation issued pursuant to a commission authorized  
17 by this section shall be submitted within five days to the  
18 chief of the New Mexico state police;

19 (6) any citation issued pursuant to a  
20 commission authorized by this section shall be to a magistrate  
21 court of New Mexico; except that any citations issued to  
22 Indians within the exterior boundaries of an Indian reservation  
23 shall be cited into tribal court;

24 (7) the agreement or any commission issued  
25 pursuant to it shall not confer any authority on a tribal court

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1 or other tribal authority [~~which~~] that the court or authority  
2 would not otherwise have;

3 (8) the authority conferred by any agreement  
4 entered into pursuant to the provisions of this section shall  
5 be coextensive with the exterior boundaries of the reservation;  
6 except that an officer commissioned under this section may  
7 proceed in hot pursuit of an offender beyond the exterior  
8 boundaries of the reservation, and the authority conferred in  
9 any written agreement between the chief of the New Mexico state  
10 police and the Navajo [~~tribe~~] Nation may extend beyond the  
11 exterior boundaries of the Navajo reservation to and including  
12 the area enclosed by the following description:

13 Beginning at a point where the southern boundary line of  
14 the Navajo [~~Indian~~] Nation reservation intersects the western  
15 right-of-way line of US [~~666~~] 491, and running thence;  
16 southerly along the western right-of-way line of US [~~666~~] 491  
17 to the northerly city limits of Gallup; thence, easterly along  
18 the northerly city limits of Gallup to the northern side of the  
19 right of way of I-40; thence, in an easterly direction along  
20 the northerly side of the right of way of I-40 to the northerly  
21 limits of the village of Prewitt; thence, in a straight line  
22 between the northerly boundary of the village of Prewitt to the  
23 southerly boundary of Ambrosia Lake; thence in a straight line  
24 between the southerly boundary of Ambrosia Lake to the  
25 southerly boundary of Hospah; thence, east along a straight

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1 line from the southerly boundary of Hospah to the southern  
2 boundary of Torreon; thence along the easterly side of the  
3 right of way of state road 197 to the westerly city limits of  
4 Cuba; thence, north along the westerly side of the right of way  
5 of state road 44 to the southerly boundary of the Jicarilla  
6 Apache [~~Indian~~] Nation reservation; thence, westerly along the  
7 southerly boundary of the Jicarilla Apache [~~Indian~~] Nation  
8 reservation to the southwest corner of that reservation;  
9 thence, northerly along the westerly boundary of the Jicarilla  
10 Apache Indian reservation to a point where the westerly  
11 boundary of the reservation intersects the southerly side of  
12 the right of way of state road 44; thence, northerly along the  
13 southerly side of the right of way of state road 44 to its  
14 intersection with the northerly side of the right of way of  
15 Navajo road 3003; thence, along the northerly side of the right  
16 of way of Navajo road 3003 to a point where the northerly side  
17 of the right of way of Navajo road 3003 intersects the westerly  
18 side of the right-of-way line of state road 371; thence,  
19 northerly along the west side of the right of way of state road  
20 371 to the southerly side of the right of way of Navajo road  
21 36; thence, westerly along the southerly side of the right of  
22 way of Navajo road 36 to the eastern border of the Navajo  
23 [~~Indian~~] Nation reservation; thence, along the eastern and  
24 southerly borders of the Navajo [~~Indian~~] Nation reservation to  
25 the point of beginning.

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1           The municipalities of Cuba and Gallup and the villages of  
2 Thoreau and Prewitt are excluded from the grant of authority  
3 that may be conferred in any written agreement entered into  
4 pursuant to provisions of this section; provided, however, any  
5 written agreement may include under such grant of authority the  
6 communities of Ambrosia Lake, Hospah, Torreon, Lybrook,  
7 Nageezi, Counselors and Blanco Trading Post and those  
8 communities commonly known as the Wingate community; the Navajo  
9 [~~Tribe~~] Nation Blue Water ranch area of the Thoreau community;  
10 the Prewitt community, exclusive of the village of Prewitt; the  
11 Haystack community; the Desidero community; the Sand Springs  
12 community; the Rincon Marquis community; the Charley Jesus  
13 Arviso and the Castillo community; and state road 264 beginning  
14 at the point where it intersects US [~~666~~] 491 and ending where  
15 state road 264 intersects the Arizona-New Mexico state line;  
16 and

17                           (9) the chief of the New Mexico state police  
18 or [~~his~~] the chief's designee and the Indian nation, tribe or  
19 pueblo or the appropriate federal official shall be required to  
20 meet at least quarterly or more frequently at the call of the  
21 chief of the New Mexico state police to discuss the status of  
22 the agreement and invite other law enforcement or other  
23 officials to attend as necessary.

24           D. Nothing in this section impairs or affects the  
25 existing status and sovereignty of [~~tribes and pueblos of~~

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1 ~~Indians]~~ an Indian nation, tribe or pueblo as established under  
2 the laws of the United States.

3 E. All persons who are duly commissioned federal  
4 law enforcement officers employed by the federal bureau of  
5 investigation; drug enforcement administration; bureau of  
6 alcohol, tobacco and firearms; United States secret service;  
7 United States customs service; immigration and naturalization  
8 service; United States marshals service; postal inspection  
9 service; United States probation department; and United States  
10 pretrial services agency; and other appropriate federal  
11 officers whose primary duty is law enforcement related, who are  
12 assigned in New Mexico and who are required to be designated by  
13 the county sheriff on a case-by-case basis in the county in  
14 which they are working, are recognized and authorized to act as  
15 New Mexico peace officers and have all the powers of New Mexico  
16 peace officers to enforce state laws in New Mexico, including  
17 the power to make arrests for violation of state laws. The  
18 department of public safety shall maintain a registry that  
19 lists the name and affiliated federal agency of every federal  
20 law enforcement officer recognized and authorized to act as a  
21 New Mexico peace officer pursuant to the provisions of this  
22 subsection. This subsection shall not be construed to impose  
23 liability upon or to require indemnification by the state for  
24 any act performed by a federal law enforcement officer pursuant  
25 to this subsection.

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F. The provisions of Subsection E of this section regarding designation of federal law enforcement officers by a county sheriff do not apply to federal law enforcement officers who are duly commissioned officers of a police or sheriff's department for an Indian nation, tribe or pueblo in New Mexico or who are federal law enforcement officers employed by the bureau of Indian affairs.

G. Nothing in this section limits, impairs or nullifies the authority of county sheriffs to appoint pursuant to Chapter 4, Article 41 NMSA 1978 duly commissioned state or federally certified officers who are employees of a police or sheriff's department of an Indian nation, tribe or pueblo in New Mexico or who are federal law enforcement officers employed by the bureau of Indian affairs as deputy sheriffs authorized to enforce New Mexico criminal and traffic law."